

COMPLAINT INVESTIGATION SUMMARY

COMPLAINT NUMBER:	1539.00
COMPLAINT INVESTIGATOR:	Karyn Romer
DATE OF COMPLAINT:	February 29, 2000
DATE OF REPORT:	April 6, 2000
REQUEST FOR RECONSIDERATION:	no
DATE OF CLOSURE:	April 26, 2000

COMPLAINT ISSUES:

Whether the Metropolitan School District of Lawrence Township violated:

- 511 IAC 7-15-1 with regard to the school's alleged failure to follow appropriate procedures when suspending a student with a disability.
- 511 IAC 7-12-1(d)(3) with regard to the School's alleged failure to include in the case conference committee notice a listing by name and title or position of the expected participants and the proposed case conference chairperson.

Because additional time was required to complete this investigation, the original report date of March 30, 2000, was extended to April 7, 2000.

FINDINGS OF FACT:

3. The student (the "Student") is fourteen years old and is eligible for special education and related services as a student with a learning disability and a hearing impairment.
4. According to documentation, the Student has received the following disciplinary action for the 1999-2000 school year:
 - a. One-half day in-school suspension on September 15, 1999 due to an incident at the bus stop;
 - b. Two days out-of-school suspension on September 16 and 17, 1999 for fighting at the bus stop on September 15, 1999;
 - c. Sent to the office for a behavior incident in class on October 21, 1999 and received a written warning;
 - d. One day bus suspension on November 17, 1999.
 - e. Three days out-of-school suspension on November 24, 29 and 30, 1999 for fighting at school;
 - f. One-half day in-school suspension for on January 19, 2000 for being disrespectful to

another student;

- g. Lunch detention on February 17, 2000 for not being prepared for class;
 - h. Three day bus suspension on February 28, 29 and March 1, 2000 for a bus incident which occurred on February 17, 2000.
- 5. The Complainant reports that, at the time she was notified of the Student's suspension from the bus, she was not informed that the Student could continue to attend school. The Student did not have transportation to the School on the days the Student was suspended from the school bus. The Student resides approximately two miles from the School. One of the Student's parents is at work at the time the Student needed transportation to the School, and the Student's other parent is unable to drive due to a disability. The Complainant further alleges that she did not receive written notification about the suspension (prior to requesting the complaint investigation) and did not understand why the Student was being suspended nearly two weeks after the alleged incident.
 - 6. The School's suspension procedures require written notification to the parent/guardian describing the dates of suspension, description of the student's misconduct, and the action taken by the principal. The School notified the Complainant in writing about the bus suspension. Additionally, the School telephoned the Complainant on February 25, 2000 to inform the Complainant about the Student's suspension from the bus.
 - 7. The Director spoke to the Complainant on February 28, 2000 about the Student's right to attend school while suspended from the bus. The Director suggested that the Student's father drop him off at school when the father went to work; however, the Complainant declined as the father's varied work schedule did not permit the father to transport the student on the days he was suspended from the bus. The Complainant scheduled a case conference committee meeting on March 6, 2000 to discuss the transportation issues, the need for a functional behavior assessment, a behavioral intervention plan, and whether the Student's eligibility category should be changed to emotional handicap or mild mental handicap.
 - 8. The Student's *IEP* dated September 9, 1999 states that the Student will receive "regular transportation with non-disabled peers." Transportation is not listed under related services on the *IEP*. The School implements 511 IAC 7-6-6 as the policy when determining transportation needs for special education students.
 - 9. The Student was assigned to the regular transportation bus provided for general education students. According to the School, regular transportation is a privilege and any student may be suspended from the bus for misconduct. By accepting regular transportation, the student's parent assumes the responsibility to take the student to school when suspended from transportation. According to the District's *attendance record* for the Student, absences from school due to suspension from the bus are counted against the Student as unexcused absences.
 - 10. According to a letter dated March 21, 2000, to the Complainant from the Truancy Designee, the Student has eleven unexcused absences from school. The letter states that "after today, if there are health problems, your child will need a medical statement from a physician in order to be excused from school. Further absences without a physician's note will result in a referral to truancy court."
 - 11. The School counts the following absences as unexcused:
 - a. September 16 and 17, 1999 when the Student was suspended from school for fighting on the bus;

- b. November 11, 1999 when the Student was absent without a phone call or note from the Complainant;
 - c. November 17, 1999 when the Student was suspended from the bus and did not attend school;
 - d. November 24, 29, and 30, 1999 when the Student was suspended from school for fighting;
 - e. January 3, 2000 when the Student was absent without a phone call or note from the Complainant;
 - f. February 28 and 29 and March 1, 2000 when the Student was suspended from the bus and did not attend school.
12. During the two half-days of in-school suspension the Student's teacher of record provided class assignments and checked in with the Student during the in-school suspension time.
 13. On March 6, 2000, the Complainant verbally requested to withdraw the investigation of the alleged violation of 511 IAC 7-12-1(d)(3). The Complainant advised that the case conference committee notifications were complete.

CONCLUSIONS:

1. 511 IAC 7-15-1 regulates the suspension of a student with a disability, limiting the period of suspension to ten cumulative instructional days and requiring the School to comply with the state statute governing suspensions. IC 20-8.1.5.1-24 states that a student's absence due to suspension from school is not a violation of the compulsory attendance requirements. Findings of Fact #2 through #7 indicate that the Student has been suspended for less than the ten cumulative instructional days permitted, having been suspended from school for five cumulative instructional days and from the bus for four instructional days. The suspensions from the bus are included in the cumulative count because the student was unable to attend school on the days the student was suspended from the bus due to lack of transportation, essentially resulting in a suspension from school. Finding of Fact #10 indicates that the Student's teacher provided the Student with assignments and assistance during the in-school suspension, therefore, those days are not included in cumulative count of days suspended. However, Findings of Fact # 8 and #9 indicate that the school is counting the Student as truant on days he was suspended from school, contrary to IC 20-8.1-5.1-24. Therefore, a violation of 511 IAC 7-15-1 is found.
2. Finding of Fact # 11 reflects the Complainant's acknowledgment that the CCC notices she received were complete. Therefore, no violation of 511 IAC 7-12-1(d)(3) is found.

The Department of Education, Division of Special Education requires the following corrective action based on the Findings of Fact and Conclusions listed above.

CORRECTIVE ACTION:

The MSD of Lawrence Township shall amend the Student's attendance records to reflect that the Student's absences on September 16 and 17, November 24, 29 and 30, 1999, and February 28, 29, and March 1, 2000 were due to actual or constructive suspension from school and are not considered "unexcused."